

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**ALBERT BRENT CULPEPPER**

Claimant

VS.

**F & A FOOD SALES, INC.**

Respondent

AND

**KANSAS CHAMBER OF COMMERCE & INDUSTRY**

Insurance Carrier

Docket No. 213,480

## ORDER

Claimant appealed the preliminary hearing Order of Administrative Law Judge Bruce E. Moore dated July 24, 1996, that denied claimant's request for preliminary compensation benefits.

## ISSUES

The sole issue raised by the claimant was whether claimant established just cause for failure to give timely notice of his accidental injury within ten days.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the preliminary hearing records and considering the briefs of the parties, the Appeals Board finds as follows:

Timely notice is an issue that grants the Appeals Board authority to review the preliminary hearing Order. See K.S.A. 44-534a, as amended.

Claimant alleged that he suffered possible bilateral carpal tunnel syndrome or tendonitis of the forearms while performing repetitive work activities as a truck driver for respondent through his last day worked of April 12, 1996. Claimant admitted that he did not notify respondent of the alleged accidental injury until his attorney sent respondent a demand letter dated June 5, 1996. Therefore, claimant did not give respondent notice of the work-related accident within ten days as required by K.S.A. 44-520. Claimant, however, argued that he had "just cause" for not giving timely notice because he thought the numbness in his hands was caused from previous back injuries and not his current work. Claimant claimed he did not know his symptoms were possible carpal tunnel syndrome until he visited a physician on May 31, 1996, for an unrelated health problem. Claimant concluded that since he did not know his condition was work related until May 31, 1996, that he had established "just cause" for not giving notice within ten days.

The Administrative Law Judge found and the respondent argued that the claimant had failed to establish "just cause" for not giving timely notice of his work-related accident. Claimant testified that prior to working for respondent he had prior back problems but those problems had not affected his upper extremities. Claimant attributed his hands going dead to the heavy labor he was required to perform while working for respondent. Claimant also established that he knew he had the responsibility to report work-related accidents because he had filed up to seven previous workers compensation claims. Claimant also testified that the respondent had informed him upon employment to report work-related accidents promptly. The Appeals Board agrees with the Administrative Law Judge and the arguments of the respondent and, therefore, affirms the Administrative Law Judge's Order. We find, for preliminary hearing purposes, that claimant failed to established "just cause" for not notifying respondent of his accidental injury within ten days.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order entered by Administrative Law Judge Bruce E. Moore dated July 24, 1996, should be, and is hereby, affirmed in all respects.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of September, 1996.

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BOARD MEMBER

c: Scott M. Price, Salina, KS  
Jeffrey A. Chanay, Topeka, KS  
Bruce E. Moore, Administrative Law Judge  
Philip S. Harness, Director